

**EIGHTY-SEVENTH GENERAL ASSEMBLY
2018 REGULAR SESSION
DAILY
SENATE CLIP SHEET**

March 20, 2018

Clip Sheet Summary

Displays all amendments, fiscal notes, and conference committee reports for previous day.

Bill	Amendment	Action	Sponsor
<u>SF 2342</u>	<u>S-5161</u>	Filed	TOM SHIPLEY
<u>HF 2281</u>	<u>S-5164</u>	Filed	DAVID JOHNSON
<u>HF 2446</u>	<u>S-5165</u>	Filed	RANDY FEENSTRA
<u>HF 2458</u>	<u>S-5162</u>	Lost	MATT McCOY
<u>HF 2458</u>	<u>S-5163</u>	Lost	NATE BOULTON

Fiscal Notes

[SF 2342](#) — [Statutory Construction, Explicit Delegation of Authority](#)
(LSB5734SV)

SENATE FILE 2342

S-5161

1 Amend Senate File 2342 as follows:

2 1. Page 1, by striking lines 4 through 8 and inserting <any
3 standard, requirement, or threshold, including any term or
4 condition of a permit or license issued by the agency, unless
5 that standard, requirement, or threshold is clearly required
6 or clearly permitted by a state statute, rule adopted pursuant
7 to this chapter, or a federal statute or regulation, or is
8 required by a court ruling, a state or federal executive order,
9 a state or federal directive that would result in the gain or
10 loss of specific funding, or a federal waiver.>

11 2. Title page, by striking line 3 and inserting <clear
12 authorization.>

By TOM SHIPLEY

S-5161 FILED MARCH 19, 2018

HOUSE FILE 2281

S-5164

1 Amend House File 2281, as passed by the House, as follows:

2 1. Page 1, after line 8 by inserting:

3 <Sec. _____. Section 459.102, Code 2018, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 51A. "*Small confinement feeding operation*"
6 means a confinement feeding operation that has an animal unit
7 capacity of three hundred or fewer animal units.

8 Sec. _____. Section 459.202, subsection 1, paragraph a, Code
9 2018, is amended to read as follows:

10 a. Except as provided in subsection 3 and sections 459.203,
11 459.203A, 459.205, and 459.206, this subsection applies to
12 confinement feeding operation structures constructed on or
13 after May 31, 1995, but prior to January 1, 1999; and to the
14 expansion of structures constructed prior to January 1, 1999.

15 Sec. _____. Section 459.202, subsection 2, paragraph a, Code
16 2018, is amended to read as follows:

17 a. Except as provided in subsection 3 and sections 459.203,
18 459.203A, 459.205, and 459.206, this subsection applies to
19 confinement feeding operation structures constructed on or
20 after January 1, 1999, but prior to March 1, 2003, and to the
21 expansion of structures constructed on or after January 1,
22 1999, but prior to March 1, 2003.

23 Sec. _____. Section 459.202, subsection 3, paragraph a, Code
24 2018, is amended to read as follows:

25 a. Except as provided in sections 459.203, 459.203A,
26 459.205, and 459.206, this subsection applies to confinement
27 feeding operation structures constructed on or after May
28 31, 1995, but prior to March 1, 2003; to the expansion of
29 structures constructed on or after May 31, 1995, but prior to
30 March 1, 2003; and to the expansion of structures constructed
31 prior to May 31, 1995.

32 Sec. _____. Section 459.202, subsection 4, paragraph a, Code
33 2018, is amended to read as follows:

34 a. Except as provided in subsection 5 and sections 459.203,
35 459.203A, 459.205, and 459.206, this subsection applies to

1 confinement feeding operation structures constructed on or
2 after March 1, 2003, and to the expansion of confinement
3 feeding operation structures constructed on or after March 1,
4 2003.

5 Sec. _____. Section 459.202, subsection 5, paragraph a, Code
6 2018, is amended to read as follows:

7 a. Except as provided in sections 459.203, 459.203A,
8 459.205, and 459.206, this subsection applies to confinement
9 feeding operation structures constructed on or after March 1,
10 2003, and to the expansion of confinement feeding operation
11 structures constructed on or after March 1, 2003.

12 Sec. _____. Section 459.202, subsection 6, Code 2018, is
13 amended to read as follows:

14 6. Except as provided in ~~section~~ sections 459.203A and
15 459.205, a confinement feeding operation structure shall not be
16 constructed or expanded within one hundred feet from a public
17 thoroughfare.

18 Sec. _____. Section 459.203, unnumbered paragraph 1, Code
19 2018, is amended to read as follows:

20 A confinement feeding operation that does not qualify as a
21 small confinement feeding operation, that was constructed or
22 expanded prior to the date that a the applicable separation
23 distance requirement became effective under section 459.202,
24 and ~~which that~~ that does not comply with ~~the section's~~ that
25 separation distance requirement may continue to operate
26 regardless of the separation distance requirement. The
27 confinement feeding operation may be expanded only if any of
28 the following applies:

29 Sec. _____. NEW SECTION. 459.203A Separation distance
30 requirements for confinement feeding operations qualifying as
31 small animal feeding operations — expansion of prior constructed
32 operations.

33 1. A confinement feeding operation that qualifies as a small
34 confinement feeding operation, that was constructed or expanded
35 prior to the date that the applicable separation distance

1 requirement became effective under section 459.202, and that
2 does not comply with that separation distance requirement
3 on and after the effective date of this Act may continue to
4 operate regardless of the separation distance requirement.

5 2. A confinement feeding operation described in subsection
6 1 may be expanded only if all of the following apply:

7 a. The confinement feeding operation is not expanded by
8 the construction or expansion of an unformed manure storage
9 structure. However, the confinement feeding operation may
10 be expanded by replacing one or more unformed manure storage
11 structures with one or more formed manure storage structures,
12 subject to all of the following:

13 (1) The animal weight capacity or animal unit capacity,
14 whichever is applicable, is not increased for that portion of
15 the confinement feeding operation that utilizes all replacement
16 formed manure storage structures.

17 (2) The use of each replaced unformed manure storage
18 structure is discontinued within one year after the
19 construction of the replacement formed manure storage
20 structure.

21 (3) The capacity of all replacement formed manure storage
22 structures does not exceed the amount required to store manure
23 produced by that portion of the confinement feeding operation
24 utilizing the formed manure storage structures during any
25 fourteen-month period.

26 (4) No portion of the replacement formed manure storage
27 structure is closer to an object or location for which a
28 separation distance is required under section 459.202 than any
29 other confinement feeding operation structure which is part of
30 the operation.

31 b. (1) For a confinement feeding operation constructed
32 prior to January 1, 1999, any construction or expansion of
33 a confinement feeding operation structure complies with the
34 separation distance requirements applying to that structure as
35 provided in section 459.202, subsections 1 and 3.

1 (2) For a confinement feeding operation constructed on
2 or after January 1, 1999, but prior to March 1, 2003, any
3 construction or expansion of a confinement feeding operation
4 structure complies with the separation distance requirements
5 applying to that structure as provided in section 459.202,
6 subsections 2 and 3.

7 (3) For a confinement feeding operation constructed on
8 or after March 1, 2003, any construction or expansion of a
9 confinement feeding operation structure complies with the
10 separation distance requirements applying to that structure as
11 provided in section 459.202, subsections 4 and 5.

12 Sec. _____. Section 459.205, subsection 1, Code 2018, is
13 amended to read as follows:

14 1. A confinement feeding operation structure, if the
15 structure is part of a confinement feeding operation ~~which~~ that
16 qualifies as a small ~~animal~~ confinement feeding operation.
17 However, this subsection shall not apply if the confinement
18 feeding operation structure is an unformed manure storage
19 structure.

20 Sec. _____. Section 459.205, subsection 4, paragraph c, Code
21 2018, is amended to read as follows:

22 c. The liquid manure originates from a small ~~animal~~
23 confinement feeding operation.

24 Sec. _____. Section 459.205, subsection 5, Code 2018, is
25 amended to read as follows:

26 5. The stockpiling of dry manure within a separation
27 distance required between a stockpile and an object or location
28 for which a separation distance is required under section
29 459.204B if any of the following apply:

30 a. The titleholder of the land benefiting from the
31 separation distance requirement executes a written waiver with
32 the titleholder of the land where the stockpile is located.

33 b. The stockpile consists of dry manure originating from a
34 small animal feeding operation other than a confinement feeding
35 operation.

S-5164 (Continued)

1 c. The stockpile consists of dry manure originating from a
2 small confinement feeding operation.

3 d. The stockpile consists of dry manure originating from
4 a confinement feeding operation that was constructed before
5 January 1, 2006, unless the confinement feeding operation is
6 expanded after that date.>

7 2. Title page, lines 1 and 2, by striking <operations
8 maintaining fishes,> and inserting <operations, including>

9 3. By renumbering as necessary.

By DAVID JOHNSON

[S-5164](#) FILED MARCH 19, 2018

HOUSE FILE 2446

S-5165

1 Amend House File 2446, as amended, passed, and reprinted by
2 the House, as follows:

3 1. Page 2, by striking lines 19 and 20 and inserting
4 <sections ~~476.11, 476.29~~, 476.95, ~~476.96~~, 476.95A, 476.95B,
5 476.100, ~~476.101~~, and 476.102.>

6 2. Page 14, line 23, by striking <476.100,>

By RANDY FEENSTRA

S-5165 FILED MARCH 19, 2018

HOUSE FILE 2458

S-5162

1 Amend House File 2458, as amended, passed, and reprinted by
2 the House, as follows:

3 1. Page 21, after line 27 by inserting:

4 <Sec. _____. LEGISLATIVE FINDINGS AND INTENT. The general
5 assembly finds that health occupations are widely recognized as
6 high-demand occupations and high-turnover jobs. Therefore, it
7 is the intent of the general assembly that the college student
8 aid commission, the department of workforce development and
9 the Iowa workforce development board, the Iowa commission on
10 volunteer service, and the economic development authority work
11 to incorporate health occupations, including but not limited
12 to nurse aides, home care and hospice aides, and other direct
13 care and service workers, in programs created under this Act
14 to address the recruitment and retention of the direct care
15 workforce and assist in bringing to scale recruitment and
16 retention programs and initiatives that utilize best practices,
17 such as the prepare to care training program and the mouth care
18 matters initiative.>

19 2. By renumbering as necessary.

By MATT McCOY

S-5162 FILED MARCH 19, 2018

LOST

HOUSE FILE 2458

S-5163

1 Amend House File 2458, as amended, passed, and reprinted by
2 the House, as follows:

3 1. Page 4, after line 30 by inserting:

4 <c. Moneys appropriated for purposes of this section
5 shall not be used for marketing and promotional materials
6 including but not limited to t-shirts, hats, stickers, bumper
7 stickers, buttons, pencils, pens, bandanas, scarves, banners,
8 signs, calendars, fans, insulated beverage containers, sticky
9 notes, notepads, balloons, thundersticks, bus and billboard
10 advertising, television and radio commercials, combs, cups,
11 keychains, rulers, flying discs, mouse pads, and bags.>

12 2. Page 6, after line 8 by inserting:

13 <5A. Moneys appropriated for purposes of this section
14 shall not be used for marketing and promotional materials
15 including but not limited to t-shirts, hats, stickers, bumper
16 stickers, buttons, pencils, pens, bandanas, scarves, banners,
17 signs, calendars, fans, insulated beverage containers, sticky
18 notes, notepads, balloons, thundersticks, bus and billboard
19 advertising, television and radio commercials, combs, cups,
20 keychains, rulers, flying discs, mouse pads, and bags.>

21 3. Page 9, after line 2 by inserting:

22 <5. Moneys appropriated for purposes of this section
23 shall not be used for marketing and promotional materials
24 including but not limited to t-shirts, hats, stickers, bumper
25 stickers, buttons, pencils, pens, bandanas, scarves, banners,
26 signs, calendars, fans, insulated beverage containers, sticky
27 notes, notepads, balloons, thundersticks, bus and billboard
28 advertising, television and radio commercials, combs, cups,
29 keychains, rulers, flying discs, mouse pads, and bags.>

30 4. Page 10, line 23, after <section.> by inserting <Moneys
31 appropriated for purposes of this section shall not be used
32 for marketing and promotional materials including but not
33 limited to t-shirts, hats, stickers, bumper stickers, buttons,
34 pencils, pens, bandanas, scarves, banners, signs, calendars,
35 fans, insulated beverage containers, sticky notes, notepads,

S-5163 (Continued)

1 balloons, thundersticks, bus and billboard advertising,
2 television and radio commercials, combs, cups, keychains,
3 rulers, flying discs, mouse pads, and bags.>

4 5. Page 16, line 14, after <section.> by inserting <Moneys
5 appropriated for purposes of this section shall not be used
6 for marketing and promotional materials including but not
7 limited to t-shirts, hats, stickers, bumper stickers, buttons,
8 pencils, pens, bandanas, scarves, banners, signs, calendars,
9 fans, insulated beverage containers, sticky notes, notepads,
10 balloons, thundersticks, bus and billboard advertising,
11 television and radio commercials, combs, cups, keychains,
12 rulers, flying discs, mouse pads, and bags.>

13 6. Page 21, line 5, after <section.> by inserting <Moneys
14 appropriated for purposes of this section shall not be used
15 for marketing and promotional materials including but not
16 limited to t-shirts, hats, stickers, bumper stickers, buttons,
17 pencils, pens, bandanas, scarves, banners, signs, calendars,
18 fans, insulated beverage containers, sticky notes, notepads,
19 balloons, thundersticks, bus and billboard advertising,
20 television and radio commercials, combs, cups, keychains,
21 rulers, flying discs, mouse pads, and bags.>

22 7. By renumbering, redesignating, and correcting internal
23 references as necessary.

By NATE BOULTON

S-5163 FILED MARCH 19, 2018

LOST

Fiscal Note

Fiscal Services Division



SF 2342 – Statutory Construction, Explicit Delegation of Authority (LSB5734SV)
Analyst: Christin Mechler (515.250.0458) christin.mechler@legis.iowa.gov
Fiscal Note Version – New

Description

Senate File 2342 prohibits State agencies from implementing or enforcing any standard, requirement, or threshold without explicit authorization by statute, rule, or regulation. This includes any term or condition of a license issued by an agency, unless the standard, requirement, or threshold is explicitly required or permitted by a State statute, rulemaking adopted pursuant to Iowa Code chapter **17A**, or federal statute or regulation.

Background

Iowa Code section **17A.23**, relating to rulemaking construction and delegation of authority, states that a State agency shall only exercise the authority or discretion delegated or conferred upon the agency by law, and shall not expand or enlarge its authority or discretion beyond such delegated or conferred powers. Current law also states that this grant of rulemaking authority shall be construed narrowly, but provides no explicit prohibition on implementing or enforcing a rulemaking without authorization by statute, rule, or regulation.

Assumptions

- Departments are currently constructing rulemakings that assist in the implementation of existing State programs that rely, in whole or in part, on federal funding.
- Due to the broad scope of the proposed legislation and the extensive amount of rulemakings housed in the Iowa Administrative Code, it is not possible to determine the amount of time and cost a State agency may incur as a result of a complete review of the agency's rulemakings, and what effect the implementation of the proposed new legal standard may have on any associated State or federal funding.
- Under the current rulemaking process, State agencies work in cooperation with the Office of the Attorney General to construct individual rulemakings, relying on the Office to assist in matters of legal interpretation and enforcement.

Fiscal Impact

The Department of Agriculture and Land Stewardship (DALs) estimates that it would lose approximately \$1.9 million in federal funding under this Bill due to no longer meeting federal eligibility requirements to run a state program. In order to implement a state meat inspection program, the United States Department of Agriculture's Food Safety and Inspection Service (USDA-FSIS) requires individual states to have enforcement powers "equal to" those of federal regulatory powers. Under **SF 2342**, such enforcement powers, unless explicitly stated, would be prohibited from implementation, which would result in the loss of federal funding.

Additionally, the DALs would also incur an estimated \$10,000 annually in legal charges from the Office of the Attorney General as a result of legal challenges to enforcement provisions, specifically if penalties were to be charged.

Senate File 2342 may impact federal funding in other State agencies, however, the impact cannot be determined at this time.

Sources

Department of Agriculture and Land Stewardship
Department of Public Safety
Legislative Services Agency

/s/ Holly M. Lyons

March 19, 2018

The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
